The Planning Inspectorate

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Miss Karen Wooden
Havant Borough Council
Business Development & Support Team
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Hampshire
PO9 2AX

Your Ref: APP/10/00699

Our Ref: APP/X1735/A/11/2143244/WF

Date: 10 March 2011

Dear Miss Wooden

Town and Country Planning Act 1990
Appeal by Swanmore Homes
Site at 32 Park Lane, Bedhampton, Havant, PO9 3HL

I enclose a copy of our Inspector's decision on the above appeal together with a copy of the decision on an application for an award of costs.

If you have queries or complaints about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at www.planning-inspectorate.gov.uk/pins/agency_info/complaints/complaints_dealing.htm. This page also contains information on our complaints procedures and the right of challenge to the High Court, the only method by which the decision can be reconsidered.

If you do not have internet access, or would prefer hard copies of our information on the right to challenge and our complaints procedure, please contact our Quality Assurance Unit on 0117 372 8252 or in writing to the address above.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 0207 947 6655.

You should also note that there is no statutory provision for a challenge to a decision on an application for an award of costs. The procedure is to make an application for judicial review. This must be done promptly. Please contact the Administrative Court for further information.

Yours sincerely

INVESTOR IN PEOPLE

POSITIVE ABOUT DISABLED PEOPLE

HAVANT BOROUGH COUNCIL
11 MAR 2011
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Erin Lindell

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http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp
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The Planning Inspectorate

Appeal Decision

Site visits made on 28 February and 3 March 2011

by David Harmston FRICS DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 March 2011

Appeal Ref: APP/X1735/A/11/2143244

32 Park Lane, Bedhampton, Havant, Hampshire PO9 3HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Swanmore Homes against the decision of Havant Borough Council.
- The application (Ref APP/10/00699), dated 29 September 2010, was refused by notice dated 7 December 2010.
- The development proposed is the erection of a two-storey dwelling attached to the existing semi-detached house.

Application for Costs

1. An application for an award of costs was made by Swanmore Homes against Havant Borough Council. This is subject to a separate decision.

Decision

2. I allow the appeal and grant planning permission for the erection of a two-storey dwelling attached to the existing semi-detached house at 32 Park Lane, Bedhampton, Havant, Hampshire PO9 3HL in accordance with the terms of the application (Ref APP/10/00699), dated 29 September 2010, subject to the conditions set out in the Schedule attached to this decision.

Preliminary Matter

3. A signed and dated Planning Obligation by way of an Undertaking was prepared and submitted by the appellant just before the application was determined. This secures a contribution towards the Hampshire County Council Transport Policy in the sum of £3,745 in accordance with Saved Policies T10 and IMP1 of the Havant District Wide Local Plan 1996 - 2011 (Local Plan). The Council is satisfied with this arrangement and there is no objection raised to the development on this issue.

Main Issues

4. The main issues in this appeal are, firstly; the effects of the development on the character and appearance of the area particularly in respect of its visual impact in the streetscene, and, secondly; the effects of the development on the living conditions and amenities of the occupiers of the adjoining houses.

Reasons

5. No 32 Park Lane is a semi-detached two-storey dwellinghouse. It faces Park Lane and is located next to its junction with Hooks Lane. Either side of the junction and facing the south side of Hooks Lane are pairs of similarly-designed, semi-detached, modern houses. The site lies within the built-up area of Bedhampton and there is no objection in principle to the development of the land in this way. Planning Policy Statement 3 *(Housing)* was revised in June 2010 so that domestic garden land is longer included within the definition of previously developed land within the Guidance. I have taken this revision into account in my determination of this appeal.

6. Between the south elevation of the host property and the back edge of the pavement in Hooks Lane is an open gap of about 8.5m in width. At the time of my visit this had been cleared of any buildings. The proposal is to erect a two-storey house within this space attached to the existing dwelling thus converting the existing pair of semi-detached dwellings into a terrace of three buildings. In all key respects, except for a slightly narrower frontage width, the design and appearance of the proposed dwelling would exactly match that of the existing dwelling.

7. On its frontage a side gap of about 2.9m in width would be retained as garden land between the south side of the new dwelling and the site boundary. This distance is reduced slightly where the bay windows to the dining area and living room extend into this space. Car parking for two cars would be provided. One would be on the space already existing with access to Park Lane with a further space being constructed to the rear with access to Hooks Lane. Garden areas would be provided to the front, side and rear of the property.

8. On the first main issue, the development would have very little impact on the streetscenes in either Hooks Lane or Park Lane. The new dwelling would appear as a logical enlargement of an existing building into an open area that exists at the side of the property. An adequate distance would be retained to the side boundary to avoid any sense of overcrowding or overdevelopment and, in my view, the building would appear neither out of place nor unsympathetic to the character and appearance of the area. This is because of its design and the ability of the site to accommodate an additional dwelling of a size and to a scale that is in keeping with those nearby whilst preserving an adequate degree of spaciousness.

9. The proposed garden areas are quite small. However, the size of the proposed rear garden (including the parking area) would be at least as large as many within the immediate neighbourhood to the site and overall an adequate amount of amenity space in total would be provided for the requirements of this modest dwelling, in my view. In summary on this issue, I therefore consider there to be no material conflicts between the proposal and the terms of Saved Policy D1 of the Local Plan.

10. On the second main issue, as far as the effects of the development on the occupiers of the adjoining house (No 32 Park Lane) are concerned, the position would be no different from that with many semi-detached properties.

Whilst the use of the rear garden would introduce additional activity, no undue overlooking, loss of privacy or loss of light to the building would be caused.

11. The dwelling to the rear (No 58 Hooks Lane) is probably the one which would be most affected by the development and I visited that property. Whilst some loss of outlook would be caused, the buildings would be sufficiently distant from each other to avoid any unacceptable, additional overlooking of land or buildings. No material difference would be experienced as a result of the development in terms of the relationship of the adjacent buildings other than as is already the case between those facing Hooks Lane and those facing Park Lane. The distance across the rear gardens separating the adjacent dwellings is just less than 20m in most instances and this would be the case between the rear of the proposed dwelling and the rear of No 58 Hooks Lane.

12. Further, the new property would be slightly offset to the south in its siting. I consider that such an arrangement of buildings is not unusual in a built-up area such as this and I do not believe that any undue harm or unacceptable loss of amenity would be caused to the occupiers of No 58 Hooks Lane as a result of this development. I therefore conclude that on this issue the proposals satisfy the requirements of Saved Policy D1 of the Local Plan.

Conditions and Conclusions

13. Concerning conditions, and having regard to the Council's suggestions on this matter, apart from the statutory time limitation of the permission, it is necessary to ensure that the materials to be used in the development are approved before work commences, in the interests of visual amenity. I have specified the approved drawings for the avoidance of doubt and in the interests of proper planning. I do not consider it appropriate to impose a condition concerning the landscaping of the site bearing in mind its size and location and the lack of scope to carry out such works. It is unnecessary to impose a condition requiring further details of the surfacing materials for the site as these are specified on the drawings and are satisfactory.

14. To safeguard the amenities of the adjoining residents I agree that a condition should be imposed restricting the hours during which construction works can take place. To avoid the storage of building materials and the parking of delivery and construction traffic on the highway, conditions are appropriate requiring details of the proposed arrangements in these respects to be submitted to and approved by the Council. Finally, in the interests of highway safety, the car parking spaces shown on the drawings should be provided and, in the interests of visual amenity, details of the boundary works should be approved. These should include details of the means of enclosure for the rear parking area, in the interests of security. I have taken into account everything else that has been put forward in relation to this appeal including the contents of a recent appeal decision concerning land at 74 Ramsdale Avenue, Havant. Nothing, however, outweighs my conclusions above or the reasons for them.

David Harmston

Inspector

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be commenced within three years of the date of this decision.

2. Before the development hereby permitted is commenced, details and samples of all the external materials to be used in the construction of the dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and samples.

3. The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos:- AG-10-15-001, AG-10-15-002, AG-10-15-003 and AG-10-15-004.

4. No construction or clearance works to implement this permission shall be carried out on the site on Sundays or Public Holidays or at any other time except between 0800hrs and 1800hrs on Mondays to Saturdays.

5. No work shall be carried out on the site to implement this permission until, in accordance with details to be submitted to and approved in writing by the Local Planning Authority, provision has been made within the site, or on other land within the appellant's control, for all temporary buildings, plant and materials storage and any waste storage and disposal. Such provision shall be retained for these purposes only until the development has been completed.

6. No part of the development hereby permitted (nor any related site clearance) shall be commenced until details specifying the provision to be made within the site (and/or on other land nearby) for the parking of construction and other vehicles throughout the clearance and construction period delivering or removing materials and other items to or from the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter, throughout such site clearance and implementation of the development hereby permitted, all such temporary parking provision shall be provided and used only as such.

7. Before the development hereby permitted is commenced, details of all the boundary works for the site, including their design and materials, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include a means of enclosure for the vehicular access to the hardstanding from Hooks Lane. The development shall be completed in accordance with the approved details.

8. The dwelling hereby permitted shall not be occupied until all the parking spaces shown on the approved drawings have been constructed and made available for use. The spaces thus provided shall be retained in that use.

END

The Planning Inspectorate

Costs Decision

Site visits made on 28 February and 3 March 2011

by David Harmston FRICS DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 March 2011

Costs application in relation to Appeal Ref: APP/X1735/A/11/2143244
32 Park Lane, Bedhampton, Havant, Hampshire PO9 3HL

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Swanmore Homes for a full award of costs against Havant Borough Council.
- The appeal was made against the refusal of planning permission for the erection of a two-storey dwelling attached to the existing semi-detached house.

Decision

1. The application for an award of costs against Havant Borough Council is refused for the reasons set out below.

Reasons

2. Circular 3/09 *(Costs Awards in Appeals and Other Planning Proceedings)* advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.

3. The applicant argues, in summary, that the reasons for refusing the application do not stand up to scrutiny and the development proposed is not contrary to any policies contained within the Development Plan. The reasons are vague and imprecise and ignore the fact that similar forms of development have been permitted elsewhere in Havant. The refusal was unjustified, unfair and unreasonable. Insufficient consideration was given to the application and the decision was flawed and illogical as the Council had confirmed that a two-storey addition to the existing dwelling would have been acceptable.

4. Further, and although the decision was consistent with the pre-application advice, inadequate consideration appears to have been given to the Design and Access Statement which provides details of comparable forms of development that have been permitted within the area. The only precedent cited by the Council is for a proposal where an appeal was dismissed. No plans were provided to inform the decision maker of the details of that development so no meaningful comparison between the cases is possible. The provisions of the Local Plan would be complied with in the development in all key respects and the appellant is entitled to the costs incurred in pursuing the appeal.

5. In rebuttal the Council states that it did not act unreasonably in refusing the application. The reasons given were sound and in accordance with the

provisions of the Development Plan. At an early, pre-application stage, the applicant's agent at that time was informed that the development was unacceptable. This followed a site visit and a thorough investigation of all the circumstances surrounding the proposal. When the application was submitted a further site visit was undertaken and the whole matter was re-assessed. Other cases were considered as well as the contents of a recent appeal decision in Ramsdale Avenue.

6. Overall, the application was considered properly and thoroughly having regard to the provisions of the Development Plan and all other material considerations. The Council acted reasonably and professionally at all stages of the application and appeal process. It was decided that the development was unacceptable for sound and clear cut reasons. This was a decision which the Council was perfectly entitled to come to.

7. In my decision letter I have explained my reasons for reaching the conclusions I have on the planning merits of this proposal. Whilst these are contrary to those of the Council, I do not consider that in any way did it act unreasonably. The Council decided the application in a manner consistent with the earlier advice it had given and fully considered all the matters that were relevant to it. The reasons are clearly expressed and define the Council's objections to the scheme fully and in detail. Whether or not the proposal is in accordance with the Development Plan is a matter of judgement for the decision maker. Although the applicant states that there are no third party objections to the development in respect of its effects on residential amenity or the streetscene, I interpret the representations made by an adjoining occupier as just that.

8. The application for costs seems to me to stem mainly from the fact that the applicant fundamentally disagrees with the Council's decision rather than that it has no credibility at all to the extent that it was made unreasonably. The reasons were neither vague nor imprecise. They were fully and properly expressed and supported both by the contents of the Committee report and the representations put forward in the appeal process. Whilst I have come to a different conclusion to the Council in respect of the acceptability of the development, that does not mean that the refusal was unjustified, unfair or unreasonable.

9. The cases put forward by both parties as precedents carry only limited weight in the planning process as each case falls to be considered on its own merits. I have considered everything else that has been submitted in support of this application but, in all the circumstances, and having regard to the guidance set out at paragraphs A3, A22, B8 and B15 – B29 of Circular 03/09, I do not consider that the Council has acted unreasonably in this matter. The application for an award of costs in favour of the applicant is therefore refused.

David Harmston

Inspector